

## **LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**P.A.S.:** Waiver #03002

**DATE:** March 14, 2003

### **SCHEDULED PLANNING COMMISSION MEETING:**

**DATE:** April 2, 2003

**PROPOSAL:** Waive the requirement for a pedestrian way easement and eliminate the construction of a sidewalk in the easement.

**LAND AREA:** The easement is 5' wide by approximately 125' long, containing 625 sq. ft., more or less.

**CONCLUSION:** The Subdivision Ordinance required this easement pursuant to LMC §26.23.125 because the length of this block exceeds the maximum of 1,000'. This easement provides pedestrian access to South 40<sup>th</sup> Street from Old Dominion Road.

<b>RECOMMENDATION:</b>
------------------------

Denial
--------

### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 8, Block 1, Williamsburg Village 12<sup>th</sup> Addition, located in the SE 1/4 of Section 18-9-7, Lancaster County, Nebraska.

**LOCATION:** South 40<sup>th</sup> Street and Pine Lake Road

**APPLICANT:** Michael Patterson  
3851 Old Dominion Court  
Lincoln, NE 68516  
421.9657

**OWNER:** Same as Applicant

**CONTACT:** Same as Applicant

**EXISTING ZONING:** R-3 Residential

**EXISTING LAND USE:** Single Family Residential

### **SURROUNDING LAND USE AND ZONING:**

North:	Single Family Residential	R-3 Residential
South:	Open space with trail	R-3 Residential
East:	Single Family Residential	R-3 Residential

West:           Single Family Residential           R-3 Residential

**HISTORY:**

Apr 1995       Final Plat 95008 platted this lot as part of Williamsburg Village 12<sup>th</sup> Addition. At the time of final platting, the pedestrian way easement was moved from the adjacent lot to the north to its current location.

Apr 1990       Preliminary Plat 90101 approved for the Williamsburg Village PUD. On this Preliminary Plat, the easement is shown on the adjacent lot to the north.

May 1979       Before the 1979 zoning update, this property was zoned A-2 Single Family Dwelling. As part of the update, the zoning changed to R-3 Residential.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

The 2025 Comprehensive Plan shows this area will remain Urban Residential.

Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, conserve energy and for the convenience of the residents. (F 18)

Overall Guiding Principles for Residential Development:

Transit, pedestrian, and bicycle networks should maximize access and mobility to provide alternatives and reduce dependence upon the automobile. (F 66)

Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling and provide multiple connections within and between neighborhoods. (F 66)

Neighborhoods, activity and employment centers, rural communities, and open lands will be connected by a continuous network of public ways. (F 87)

The concept of balance also applies to methods of transportation. While the system must function well for motor vehicles, it should also establish public transportation, bicycling, and walking as realistic alternatives now and in the future. (F 87)

Pedestrians should be able to walk in a direct path to destinations like transit stops, schools, parks, and commercial and mixed-use activity centers. (F 90)

**TRAFFIC ANALYSIS:**

The 2025 Comprehensive Plan classifies the internal streets within Williamsburg Village as local streets now and in the future. This easement provides access to South 40<sup>th</sup> Street. The Comprehensive Plan identifies South 40<sup>th</sup> Street as a Minor Arterial now and in the future.

**ANALYSIS:**

1. The pedestrian way easement on Applicants property has not been paved. This easement provides access to South 40<sup>th</sup> Street and a neighborhood trail from Old

Dominion Court. At the edge of Applicant's property, a pedestrian easement on Outlot D connects Applicant's easement to South 40<sup>th</sup> Street. The attached aerial shows the neighborhood trail also runs nearly adjacent to the end of Applicant's easement.

2. This easement was required due to the excessive length of the Old Dominion Road and South 38<sup>th</sup> Street block between Williamsburg Drive and Pine Lake Road. The City's interest in this easement was to provide appropriately spaced pedestrian connections between Old Dominion Road and South 40<sup>th</sup> Street.
3. The Lancaster County Register of Deeds filed Williamsburg Village 12<sup>th</sup> Addition on May 16, 1995. The plat shows this easement on Applicant's property.
4. LMC §26.11.040 requires paving pedestrian way easements when the developer surfaces adjacent streets. If they paved this one along with the adjacent street, Applicant would have fully understood their responsibility to provide and maintain this easement. However, the developer is now intent on paving this easement, and has notified Applicant that such work will be completed soon.
5. The subdivision ordinance provides for waivers in the event that "the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual condition that the strict application of the requirements contained in these regulations would result in actual difficulties or substantial hardship or injustice." (LMC §26.31.010)
6. Applicant states this easement is redundant because of access to the trail off South 38<sup>th</sup> Street and from Williamsburg Drive. However, the Comprehensive Plan specifically states that guidelines for residential development include maximizing pedestrian access and mobility, and providing multiple connections within neighborhoods.
7. Applicant states this easement is unnecessary due to lack of demand to reach the neighborhood trail from their cul-de-sac or property. However, without this easement being paved, many pedestrians are unlikely to know of its existence.
8. In Leesburg Court, the neighboring cul-de-sac, the developer granted a pedestrian way easement on a lot, again due to excessive block length. The attached aerial shows they did not connect the easement to either South 40<sup>th</sup> Street or the trail at the time the easement was paved. A paved sidewalk has been installed connecting this easement with South 40<sup>th</sup> Street, although it does not follow the approved easement route. The trail has not been connected to this easement. A footpath can be seen, worn in the grass, leading from the easement in Leesburg Court to the neighborhood trail. This suggests the easement over Applicant's property would be used as well.

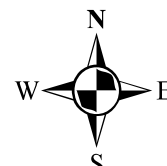
9. The Subdivision Ordinance does not require pedestrian way easements merely to meet demand. The ordinance requires them, consistent with the Comprehensive Plan, to provide multiple opportunities for pedestrians to navigate their neighborhoods and reach their destinations.
10. The Public Works and Utilities Department does not support this application for the reason that elimination of this easement will create a block length which exceeds the maximum allowable block length of 1,000'.
11. The Parks and Recreation Department has no comment on this request since it is outside of their jurisdiction.
12. The Building and Safety Department has not commented on this application.

Prepared by:

Greg Czaplewski  
Planner

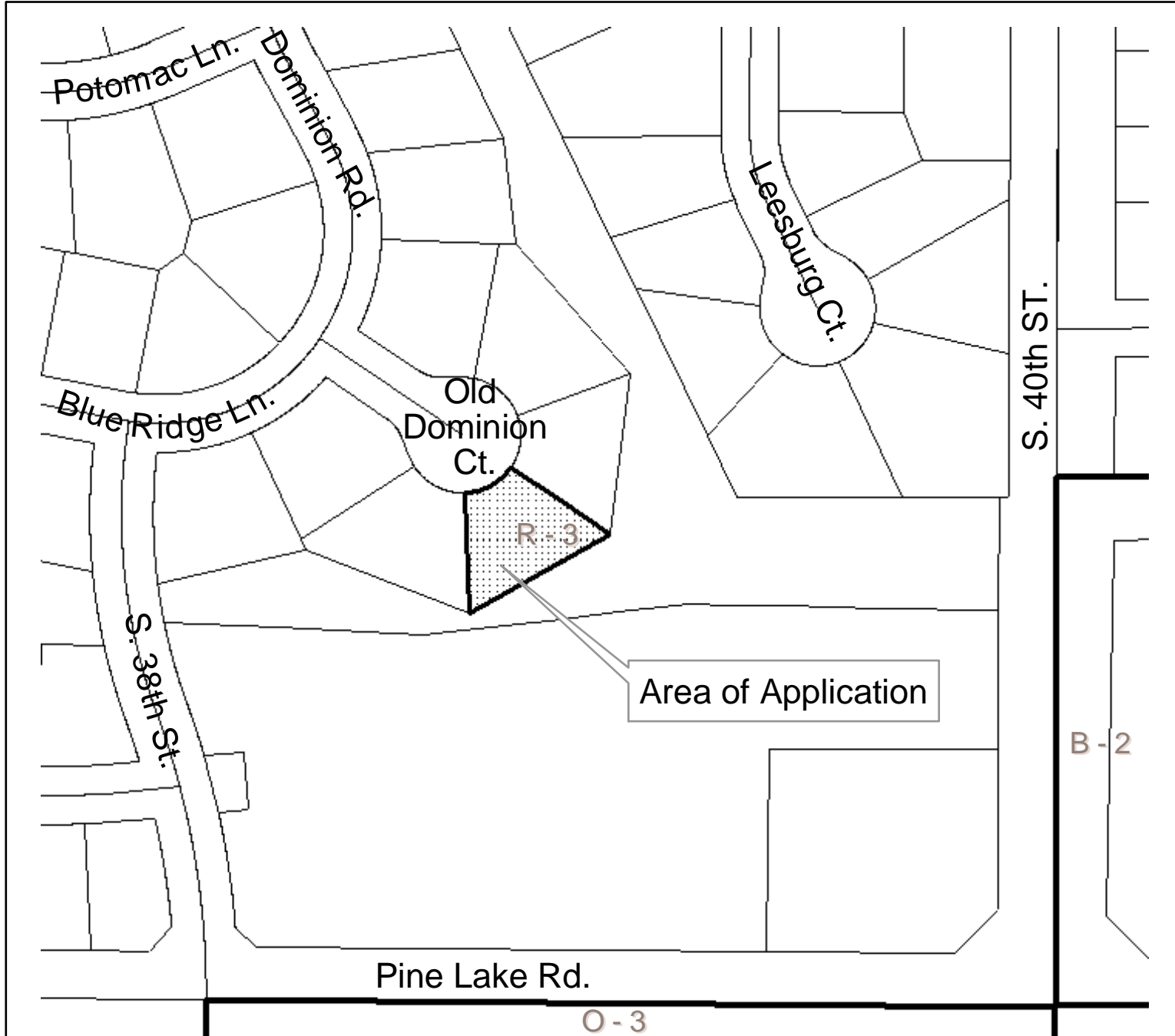


**Waiver #03002**  
**S. 40th & Pine Lake Rd.**



Lincoln City - Lancaster County Planning Dept.  
1999 aerial





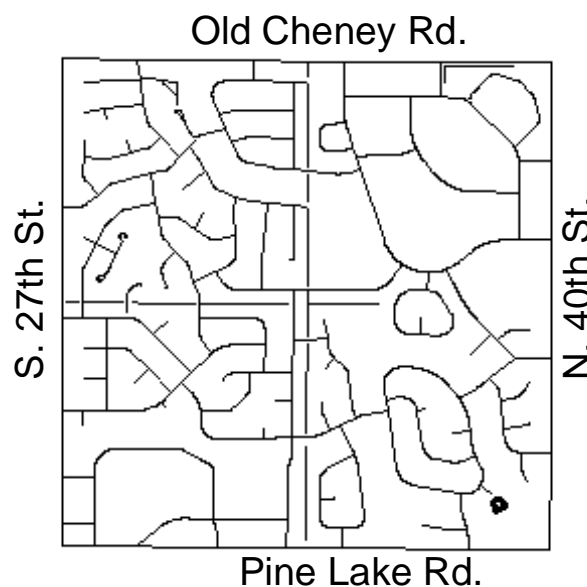
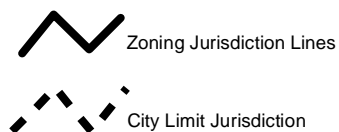
## Waiver #03002

### S. 40th & Pine Lake Rd.

#### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec.18 T9N R7E





**Dedicated to creating the finest neighborhoods.**

February 24, 2003

Michael C. & Linda A. Patterson  
3821 Old Dominion Ct.  
Lincoln, NE. 68516

Dear Mr. & Mrs. Patterson:

Recently, in an effort to get our escrows released by the city, we discovered that Hampton Development Services still has some outstanding obligations that need to be addressed. One of the obligations that we are required to fulfill is the installation of a 5 foot pedestrian sidewalk that needs to be placed in the existing 5 foot pedestrian easement that is on your lot. Attached is a copy that shows your lot and the pedestrian easement that we are referring to. This is a courtesy letter to give you advance notice that it is our intention to install this sidewalk at our first opportunity. Hopefully we can accomplish this in the next couple of weeks depending on the weather.

If you have any questions please feel free to give me a call.

Sincerely,



Fred J. Matulka

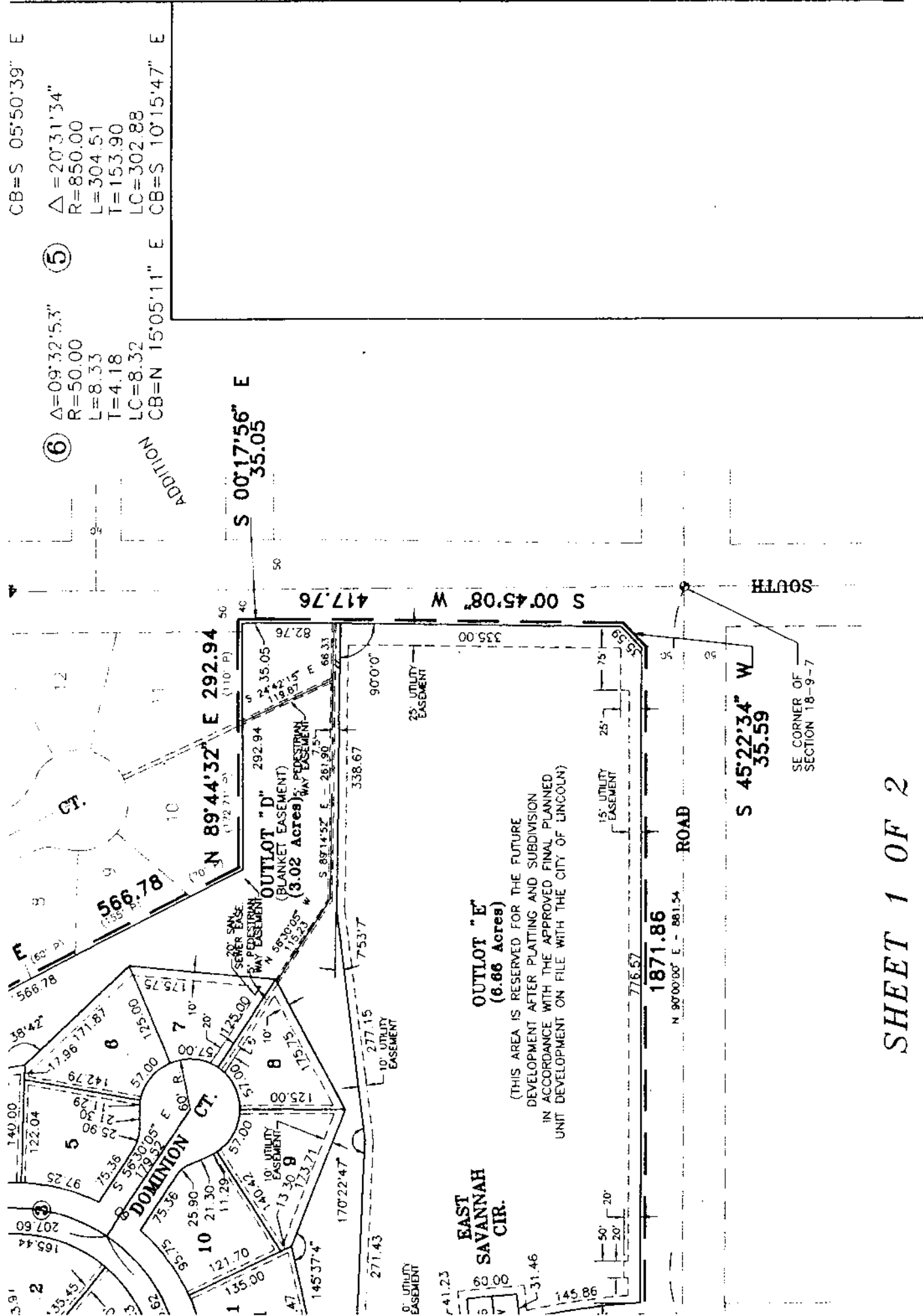
***Hampton Development Services, Inc.***

3600 Village Drive, Suite 140 ♦ Lincoln, Nebraska 68516

Office: (402) 434-5650 ♦ FAX: (402) 434-5654

Email: [hds@hamptonlots.com](mailto:hds@hamptonlots.com) ♦ Web Site: [www.hamptonlots.com](http://www.hamptonlots.com)

SHEET 1 OF 2





## **MIKE PATTERSON**

3821 OLD DOMINION CT.

LINCOLN, NE 68516      PHONE 421-9657

Lincoln Planning Department  
555 So. 10<sup>th</sup> St. #213  
Lincoln, NE 68508

February 27, 2003

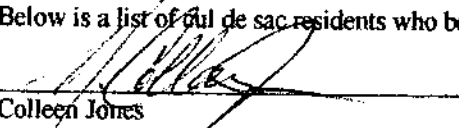
RE: Waiver for Sidewalk Construction on Lot Eight(8), Block 1, Williamsburg Village, 12<sup>th</sup> Edition

This letter and accompanying signatures is a formal request to the Planning Department to waive the construction of a sidewalk on an easement on my lot as described in a letter to me by Hampton Development Services dated February 24, 2003 (see attached).

My wife and I purchased this lot in August 1998 and moved into our home in February 1999. When we purchased the lot, there was no disclosure to us of potential sidewalk construction on the easement. Since February 1999, there has been virtually no demand to access the path encircling the Williamsburg development from our cul de sac or property. This is due to easy access to the path from 38<sup>th</sup> Street, Savannah Pines Retirement Center, and Williamsburg Drive. We believe the proposed construction is redundant and unnecessary.

A copy of this letter will serve as a notice to Hampton Development Services to delay installation of the footpath until the Planning Committee has determined a ruling.

Below is a list of cul de sac residents who believe that the requirement to install a footpath should be waived.

  
Colleen Jones

3820 Old Dominion Ct.

423-1659

  
John and Deb O'Connor

3811 Old Dominion Ct.

421-1663

  
Kent and Melissa Folsom

3810 Old Dominion Ct.

420-2141

  
Terry and Cindy Olson

3800 Old Dominion Ct.

420-1255

  
Shashi and Sheffei Verma

3801 Old Dominion Ct.

423-7698

  
Tom and Lisa Blankenau

6754 Old Dominion Rd.

420-1002

Thank you for your attention to this matter and we look forward to an early response.

Michael C. and Linda A. Patterson



Enc., copy Hampton Development Services

# M e m o r a n d u m

---

**To:** Greg Czaplewski, Planning Dept.

**From:** Bruce Briney, Public Works and Utilities

**Subject:** Waiver #03002, Williamsburg Village 12th Addition  
Waiver for Construction of Sidewalks in a Pedestrian Easement

**Date:** March 14, 2003

**cc:** Nicole Fleck-Tooze  
Randy Hoskins  
Harry Kroos  
Doug Blum

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the application for Waiver #03002 for Lot 8 Block 1 in Williamsburg Village 12th Addition requesting a waiver for the construction of sidewalks in the pedestrian easement. Public Works has the following comment:

- Public Works does not support the application for Waiver #03002. The elimination of the sidewalk in this pedestrian easement creates a block which exceeds the maximum allowable block length of 1000'.